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BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee FEB 11 PM 3:04

T.R.A. DOCKET ROOM

In Re: *BellSouth's Motion For The Establishment Of A New Performance Assurance Plan*

Docket 04-00150

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO
MOTION FILED ON BEHALF OF INLINE SEEKING TO QUASH SUBPOENA**

BellSouth Telecommunications, Inc. ("BellSouth") files this *Response* to the *Motion to Quash* purportedly filed on behalf of InLine to quash a subpoena issued by the Tennessee Regulatory Authority ("Authority" or "TRA") and respectfully shows the Hearing Officer as follows:

BellSouth files this separate response relating to InLine to highlight the serious issues created by the manner in which CompSouth, on its own and through its individual members, has sought to avoid discovery in this docket. On February 4, 2005, BellSouth was served with sixteen identical *Motions to Quash*, purportedly on behalf of the following entities:

- Access Point, Inc.
- Access Integrated Networks, Inc.
- AT&T Communications of the South Central States, LLC
- Birch Telecom of the South, Inc.
- Dieca Communications, Inc. d/b/a Covad Communications Company
- ITC^DeltaCom Communications, Inc.
- IDS Telecom LLC
- InLine
- KMC Telecom Com. Inc.
- LecStar Telecom, Inc.
- MCI metro Access Transmission Services, LLC/MCI WorldCom Communications, Inc.
- Momentum Business Solutions, Inc.

Network Telephone Corporation
NuVox Communications, Inc
Talk America, Inc.
Xspedius, LLC
Z-Tel Communications, Inc.

BellSouth was surprised to receive a *Motion to Quash* filed on behalf of InLine. On January 28, 2005, counsel for BellSouth was contacted by Michele Boner, who identified herself as the CLEC administrator for InLine. Ms. Boner confirmed that InLine is not a certificated CLEC in the state of Tennessee, should not have been listed in the CompSouth intervention as a company interested in this docket, and requested to be excused from the subpoena due to their lack of interest in the docket. ***In short, Ms. Boner confirmed that InLine has no interest in the Tennessee Performance Assurance Plan.*** In light of InLine's lack of any relationship to or interest in the State of Tennessee, InLine should not have been listed as one of the several members of CompSouth in the CompSouth *Motion to Intervene*. In short, that *Motion to Intervene* stated that CompSouth wanted to participate in the docket to protect the interests of members regarding their business in Tennessee and, as clarified by Ms. Boner, InLine has no such interest.

BellSouth attaches the correspondence it has received from InLine.

BellSouth has sought discovery in this discovery since December, and its efforts have been met by CompSouth and its member corporations with a variety of delay tactics. At the recent status conference, counsel for CompSouth reiterated that the individual members cited in the footnote in the *Motion to Intervene* on behalf of CompSouth should not be considered parties in the docket and were not necessarily represented by the same counsel. In response to this representation, BellSouth

researched appropriate registered agents for those entities listed in the footnote and served its subpoenas. When BellSouth was contacted in response to such subpoenas, BellSouth agreed with Ms. Boner that InLine should not participate in this docket, as it has no interest in Tennessee. For this reason, upon clarification of that fact, BellSouth has already excused InLine from responding to the subpoena, and neither BellSouth nor the TRA should be burdened by additional motions purportedly filed on behalf of InLine.

For the foregoing reasons, the *Motion* filed on behalf of InLine should be summarily denied.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 

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January 28, 2005

Joelle Phillips
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Nashville, TN 37201-3300

Re: *BellSouth's Motion for the Establishment of a New Performance
Assurance Plan*
Docket 04-00150

Dear Ms Phillips,

InLine is in receipt of the Subpoena *Duces Tecum* for Deposition issued by the Tennessee Regulatory Authority. Per our telephone conversation today InLine is not a registered CLEC in the State of Tennessee and should not have been listed as an interested party by CompSouth. At this time InLine asks to be excused from this motion due to the fact that InLine is not an Interested Party and could not supply any information relevant to the Interrogatories based on the fact we have never done business in Tennessee.

Should you have any questions or require further information please let me know.

Sincerely,

Michele Boner
CLEC Administrator
205-278-8134

CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2005, a copy of the foregoing document was served on the following, via hand delivery, facsimile, overnight, electronic mail or US Mail, addressed as follows:

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

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